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International Covenant on
Civil and Political Rights

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MEETINGS OF THE STATES PARTIES
Thirteenth meeting

NOTE VERBALE DATED 15 MARCH 1994 FROM THE PERMANENT MISSION OF THE REPUBLIC OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Republic of Croatia to the United Nations presents its compliments to the Secretary-General and has the honour to request that the enclosed aide-mémoire be circulated as a document of the thirteenth meeting of the States parties to the International Covenant on Civil and Political Rights.

Annex

AIDE-MÉMOIRE DATED 15 MARCH 1994 FROM THE PERMANENT MISSION OF CROATIA TO THE UNITED NATIONS

The Republic of Croatia objects to the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro) in the thirteenth meeting of the States parties to the International Covenant on Civil and Political Rights, owing to the fact that the above-mentioned delegation cannot be considered a State party to the said Covenant.

The Republic of Croatia strongly objects to the pretension of the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue the State, international, legal and political personality of the former Socialist Federal Republic of Yugoslavia.

In this connection, the Republic of Croatia wishes to emphasize that, in their relevant resolutions concerning this issue, the Security Council and the General Assembly did not accept this claim of the Federal Republic of Yugoslavia (Serbia and Montenegro). The Security Council, in its resolution 757 (1992), particularly noted that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted". This position was reaffirmed in Security Council resolution 777 (1992), in which the Council further noted that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist" and that "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations". On 22 September 1992, the General Assembly, in its resolution 47/1, agreed with the Security Council recommendation.

In this regard, the Republic of Croatia wishes to draw attention to the opinions of the Arbitration Commission of the United Nations/European Community International Conference on the Former Yugoslavia, particularly opinions Nos. 8, 9 and 10 of 4 July 1992. The Commission concluded that "the process of dissolution of the Socialist Federal Republic of Yugoslavia ... is now complete and the Socialist Federal Republic of Yugoslavia no longer exists" (opinion No. 8), and that "the successor States to the Socialist Federal Republic of Yugoslavia must together settle all aspects of the succession by agreement ... and that none of the successor States may thereupon claim for itself alone the membership rights previously enjoyed by the former Socialist Federal Republic of Yugoslavia" (opinion No. 9). Furthermore, according to opinion No. 10 of the Commission, since there was no agreement among the successor States of the Socialist Federal Republic of Yugoslavia as to the succession of the rights and obligations of the Socialist Federal Republic of Yugoslavia, general rules of international law which deal with succession of States with respect to treaties, property, archives and debts should be applied. In connection with this issue, the Commission considers that "the Federal Republic of Yugoslavia (Serbia and Montenegro) is a new State which cannot be considered the sole successor to the Socialist Federal Republic of Yugoslavia".

All the successor States of the former Socialist Federal Republic of Yugoslavia, except the Federal Republic of Yugoslavia (Serbia and Montenegro), conducted themselves according to the rules of international law and - in the framework of the United Nations - notified the Secretary-General, in his capacity as depository of international treaties, of their intention to be considered, in respect of their respective territories, a party, by virtue of succession of the Socialist Federal Republic of Yugoslavia, to various treaties; and sought acceptance to membership in international organizations in accordance with the rules of such organizations.

The Federal Republic of Yugoslavia (Serbia and Montenegro) has, however,not acted according to rules of international law and the aforementioned resolutions of the Security Council and the General Assembly. Moreover, it has ignored them and tried to participate in international forums as a State party to treaties and/or as a member of international organizations with the intention of creating a precedent by which it would later seek to prove that it is the sole legitimate successor to the former Socialist Federal Republic of Yugoslavia.

Since the Federal Republic of Yugoslavia (Serbia and Montenegro) has not notified the Secretary-General of its succession to the International Covenant on Civil and Political Rights as one of the successor States of the former Socialist Federal Republic of Yugoslavia, it cannot be considered to be a party to the said Covenant. Therefore, as a non-party, the said delegation has no right to participate in the thirteenth meeting of States Parties to the International Covenant on Civil and Political Rights.

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Civil and Political Rights

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MEETINGS OF THE STATES PARTIES
Thirteenth Meeting

LETTER DATED 16 MARCH 1994 FROM THE CHARGE D'AFFAIRES A.I. OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I should be grateful if you would circulate the enclosed aide mémoire dated 16 March 1994 as a document of the Thirteenth Meeting of the States Parties to the International Covenant on Civil and Political Rights.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

Annex

AIDE MÉMOIRE

Since the adoption of resolution 47/1 by the General Assembly, some international organizations and specialized agencies have adopted arbitrary decisions in connection with the participation of the Federal Republic of Yugoslavia in their work.

Those decisions are totally unfounded and contrary to the letter and spirit of the above-mentioned resolution of the General Assembly, which pertains solely to the non-participation of the Federal Republic of Yugoslavia in the work of the General Assembly. That was clearly confirmed by the opinion of the United Nations Legal Counsel 1/ that "the resolution neither terminates nor suspends Yugoslavia's membership in the Organization ..." and "... does not take away the right of Yugoslavia to participate in the work of organs other than Assembly bodies".

According to another opinion of the United Nations Legal Office, dated 16 November 1993, the status of Yugoslavia as a party to treaties was not affected by the adoption by the General Assembly of resolution 47/1.

For its part, the Federal Republic of Yugoslavia clearly stated that it will continue the State, international, legal and political personality of the former Socialist Federal Republic of Yugoslavia and that it will strictly abide by all international commitments undertaken by the Socialist Federal Republic of Yugoslavia.

The delegation of the Federal Republic of Yugoslavia regularly participates in the meetings of States parties to various international conventions.

At the Thirteenth Meeting of the States Parties to the International Covenant on Civil and Political Rights, held on 16 March 1994, certain States parties have sought to challenge Yugoslavia's right to participate in this meeting.

The Government of the Federal Republic of Yugoslavia strongly considers that such action is totally unfounded and therefore unacceptable for the following reasons:

(a) It is inconsistent with the provisions of the International Covenant on Civil and Political Rights and the rules of procedure for the meeting of the States Parties;

(b) The status of the Federal Republic of Yugoslavia as a party to that Covenant is not in any way affected by General Assembly resolution 47/1;

(c) The Federal Republic of Yugoslavia has clearly expressed its readiness to abide fully by the commitments arising from the Covenant and cooperate with the Human Rights Committee;

(d) The delegation of the Federal Republic of Yugoslavia has been officially invited to take part in the Meeting of States Parties, for which it has duly submitted full powers.

The Government of the Federal Republic of Yugoslavia wishes to draw the attention of the States parties to the International Covenant on Civil and Political Rights to the fact that such legally unfounded and politically motivated action by certain States parties may set a dangerous precedent with respect to the status of the States parties to the Covenant and create serious obstacles to its implementation.

It should be understood that the denial of the legitimate right of the Federal Republic of Yugoslavia to participate in the Meeting of the States Parties would at the same time imply the suspension of its obligations arising from the Covenant. Therefore, it would mean that Yugoslavia will no longer be obliged to implement the provisions of the Covenant.

The International Covenant on Civil and Political Rights is a specific category of treaties valid erga omnes with the primary goal of protecting human rights. Therefore, the decision not to allow participation of the delegation of the Federal Republic of Yugoslavia in the Thirteenth Meeting of the States Parties to the International Covenant on Civil and Political Rights is in total contradiction with this noble goal as it would discriminate against a State party that has demonstrated readiness and resolve to honour and implement the Covenant.

Notes

1/ A/47/485.